

AMENDED IN SENATE AUGUST 18, 2014

AMENDED IN SENATE JUNE 30, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1690

Introduced by Assembly Member Gordon

February 13, 2014

An act to amend Section 65583.2 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1690, as amended, Gordon. Local planning: housing elements.

Existing law requires that the housing element of a community's general plan contain a program that sets forth a schedule of actions during the planning period that the local government is undertaking, or intends to undertake, to implement the policies and achieve the goals and objectives of the housing element through the utilization of appropriate federal and state financing and subsidy programs, and the utilization of moneys in a low- and moderate-income housing fund, as specified. Existing law also requires the program to accommodate at least 50% of the very low and low-income housing need on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted, as specified.

This bill would authorize a city or county to accommodate the very low and low-income housing need on sites designated for mixed uses if those sites allow 100% residential use and require that residential use occupy 50% of the total floor area of a mixed-use project.

This bill would incorporate additional changes to Section 65583.2 of the Government Code proposed by AB 1537 that would become

operative if this bill and AB 1537 are both enacted and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65583.2 of the Government Code is
2 amended to read:
3 65583.2. (a) A city's or county's inventory of land suitable
4 for residential development pursuant to paragraph (3) of
5 subdivision (a) of Section 65583 shall be used to identify sites that
6 can be developed for housing within the planning period and that
7 are sufficient to provide for the jurisdiction's share of the regional
8 housing need for all income levels pursuant to Section 65584. As
9 used in this section, "land suitable for residential development"
10 includes all of the following:
11 (1) Vacant sites zoned for residential use.
12 (2) Vacant sites zoned for nonresidential use that allows
13 residential development.
14 (3) Residentially zoned sites that are capable of being developed
15 at a higher density.
16 (4) Sites zoned for nonresidential use that can be redeveloped
17 for, and as necessary, rezoned for, residential use.
18 (b) The inventory of land shall include all of the following:
19 (1) A listing of properties by parcel number or other unique
20 reference.
21 (2) The size of each property listed pursuant to paragraph (1),
22 and the general plan designation and zoning of each property.
23 (3) For nonvacant sites, a description of the existing use of each
24 property.
25 (4) A general description of any environmental constraints to
26 the development of housing within the jurisdiction, the
27 documentation for which has been made available to the
28 jurisdiction. This information need not be identified on a
29 site-specific basis.
30 (5) A general description of existing or planned water, sewer,
31 and other dry utilities supply, including the availability and access
32 to distribution facilities. This information need not be identified
33 on a site-specific basis.

1 (6) Sites identified as available for housing for above
2 moderate-income households in areas not served by public sewer
3 systems. This information need not be identified on a site-specific
4 basis.

5 (7) A map that shows the location of the sites included in the
6 inventory, such as the land use map from the jurisdiction's general
7 plan for reference purposes only.

8 (c) Based on the information provided in subdivision (b), a city
9 or county shall determine whether each site in the inventory can
10 accommodate some portion of its share of the regional housing
11 need by income level during the planning period, as determined
12 pursuant to Section 65584. The analysis shall determine whether
13 the inventory can provide for a variety of types of housing,
14 including multifamily rental housing, factory-built housing,
15 mobilehomes, housing for agricultural employees, emergency
16 shelters, and transitional housing. The city or county shall
17 determine the number of housing units that can be accommodated
18 on each site as follows:

19 (1) If local law or regulations require the development of a site
20 at a minimum density, the department shall accept the planning
21 agency's calculation of the total housing unit capacity on that site
22 based on the established minimum density. If the city or county
23 does not adopt a law or regulations requiring the development of
24 a site at a minimum density, then it shall demonstrate how the
25 number of units determined for that site pursuant to this subdivision
26 will be accommodated.

27 (2) The number of units calculated pursuant to paragraph (1)
28 shall be adjusted as necessary, based on the land use controls and
29 site improvements requirement identified in paragraph (5) of
30 subdivision (a) of Section 65583.

31 (3) For the number of units calculated to accommodate its share
32 of the regional housing need for lower income households pursuant
33 to paragraph (2), a city or county shall do either of the following:

34 (A) Provide an analysis demonstrating how the adopted densities
35 accommodate this need. The analysis shall include, but is not
36 limited to, factors such as market demand, financial feasibility, or
37 information based on development project experience within a
38 zone or zones that provide housing for lower income households.

39 (B) The following densities shall be deemed appropriate to
40 accommodate housing for lower income households:

1 (i) For incorporated cities within nonmetropolitan counties and
2 for nonmetropolitan counties that have micropolitan areas: sites
3 allowing at least 15 units per acre.

4 (ii) For unincorporated areas in all nonmetropolitan counties
5 not included in clause (i): sites allowing at least 10 units per acre.

6 (iii) For suburban jurisdictions: sites allowing at least 20 units
7 per acre.

8 (iv) For jurisdictions in metropolitan counties: sites allowing
9 at least 30 units per acre.

10 (d) For purposes of this section, metropolitan counties,
11 nonmetropolitan counties, and nonmetropolitan counties with
12 micropolitan areas are as determined by the United States Census
13 Bureau. Nonmetropolitan counties with micropolitan areas include
14 the following counties: Del Norte, Humboldt, Lake, Mendocino,
15 Nevada, Tehama, and Tuolumne and such other counties as may
16 be determined by the United States Census Bureau to be
17 nonmetropolitan counties with micropolitan areas in the future.

18 (e) A jurisdiction is considered suburban if the jurisdiction does
19 not meet the requirements of clauses (i) and (ii) of subparagraph
20 (B) of paragraph (3) of subdivision (c) and is located in a
21 Metropolitan Statistical Area (MSA) of less than 2,000,000 in
22 population, unless that jurisdiction's population is greater than
23 100,000, in which case it is considered metropolitan. Counties,
24 not including the City and County of San Francisco, will be
25 considered suburban unless they are in a MSA of 2,000,000 or
26 greater in population in which case they are considered
27 metropolitan.

28 (f) A jurisdiction is considered metropolitan if the jurisdiction
29 does not meet the requirements for "suburban area" above and is
30 located in a MSA of 2,000,000 or greater in population, unless
31 that jurisdiction's population is less than 25,000 in which case it
32 is considered suburban.

33 (g) For sites described in paragraph (3) of subdivision (b), the
34 city or county shall specify the additional development potential
35 for each site within the planning period and shall provide an
36 explanation of the methodology used to determine the development
37 potential. The methodology shall consider factors including the
38 extent to which existing uses may constitute an impediment to
39 additional residential development, development trends, market

1 conditions, and regulatory or other incentives or standards to
2 encourage additional residential development on these sites.

3 (h) The program required by subparagraph (A) of paragraph (1)
4 of subdivision (c) of Section 65583 shall accommodate 100 percent
5 of the need for housing for very low and low-income households
6 allocated pursuant to Section 65584 for which site capacity has
7 not been identified in the inventory of sites pursuant to paragraph
8 (3) of subdivision (a) on sites that shall be zoned to permit
9 owner-occupied and rental multifamily residential use by right
10 during the planning period. These sites shall be zoned with
11 minimum density and development standards that permit at least
12 16 units per site at a density of at least 16 units per acre in
13 jurisdictions described in clause (i) of subparagraph (B) of
14 paragraph (3) of subdivision (c) and at least 20 units per acre in
15 jurisdictions described in clauses (iii) and (iv) of subparagraph (B)
16 of paragraph (3) of subdivision (c). At least 50 percent of the very
17 low and low-income housing need shall be accommodated on sites
18 designated for residential use and for which nonresidential uses
19 or mixed-uses are not permitted, except that a city or county may
20 accommodate all of the very low and low-income housing need
21 on sites designated for mixed uses if those sites allow 100 percent
22 residential use and require that residential use occupy 50 percent
23 of the total floor area of a mixed-use project.

24 (i) For purposes of this section and Section 65583, the phrase
25 “use by right” shall mean that the local government’s review of
26 the owner-occupied or multifamily residential use may not require
27 a conditional use permit, planned unit development permit, or other
28 discretionary local government review or approval that would
29 constitute a “project” for purposes of Division 13 (commencing
30 with Section 21000) of the Public Resources Code. Any subdivision
31 of the sites shall be subject to all laws, including, but not limited
32 to, the local government ordinance implementing the Subdivision
33 Map Act. A local ordinance may provide that “use by right” does
34 not exempt the use from design review. However, that design
35 review shall not constitute a “project” for purposes of Division 13
36 (commencing with Section 21000) of the Public Resources Code.
37 Use by right for all rental multifamily residential housing shall be
38 provided in accordance with subdivision (f) of Section 65589.5.

39 *SEC. 1.5. Section 65583.2 of the Government Code is amended*
40 *to read:*

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general ~~plan~~ *plan*, for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can

1 accommodate some portion of its share of the regional housing
2 need by income level during the planning period, as determined
3 pursuant to Section 65584. The analysis shall determine whether
4 the inventory can provide for a variety of types of housing,
5 including multifamily rental housing, factory-built housing,
6 mobilehomes, housing for agricultural employees, emergency
7 shelters, and transitional housing. The city or county shall
8 determine the number of housing units that can be accommodated
9 on each site as follows:

10 (1) If local law or regulations require the development of a site
11 at a minimum density, the department shall accept the planning
12 agency's calculation of the total housing unit capacity on that site
13 based on the established minimum density. If the city or county
14 does not adopt a law or regulations requiring the development of
15 a site at a minimum density, then it shall demonstrate how the
16 number of units determined for that site pursuant to this subdivision
17 will be accommodated.

18 (2) The number of units calculated pursuant to paragraph (1)
19 shall be adjusted as necessary, based on the land use controls and
20 site improvements requirement identified in paragraph (5) of
21 subdivision (a) of Section 65583.

22 (3) For the number of units calculated to accommodate its share
23 of the regional housing need for lower income households pursuant
24 to paragraph (2), a city or county shall do either of the following:

25 (A) Provide an analysis demonstrating how the adopted densities
26 accommodate this need. The analysis shall include, but is not
27 limited to, factors such as market demand, financial feasibility, or
28 information based on development project experience within a
29 zone or zones that provide housing for lower income households.

30 (B) The following densities shall be deemed appropriate to
31 accommodate housing for lower income households:

32 (i) For ~~an incorporated city~~ *city* within a nonmetropolitan
33 ~~county~~ *county* and for a nonmetropolitan ~~county that has~~
34 *county that has a* micropolitan ~~area~~ *area*: sites allowing at least
35 15 units per acre.

36 (ii) For ~~an unincorporated area in all~~ *area in a* nonmetropolitan
37 ~~county~~ *county* not included in clause (i): sites allowing at least
38 10 units per acre.

39 (iii) For a suburban ~~jurisdiction~~ *jurisdiction*: sites allowing at
40 least 20 units per acre.

(iv) ~~For jurisdictions in a jurisdiction in a metropolitan counties;~~
county: sites allowing at least 30 units per acre.

(d) ~~For purposes of this section, a metropolitan counties; county,~~
~~nonmetropolitan counties; county, and nonmetropolitan counties~~
~~with micropolitan areas are county with a micropolitan area shall~~
be as determined by the United States Census Bureau.
~~Nonmetropolitan counties with micropolitan areas include A~~
~~nonmetropolitan county with a micropolitan area includes the~~
following counties: Del Norte, Humboldt, Lake, Mendocino,
Nevada, Tehama, and Tuolumne and ~~such~~ other counties as may
be determined by the United States Census Bureau to be
nonmetropolitan counties with micropolitan areas in the future.

(e) ~~A jurisdiction is—~~(1) *Except as provided in paragraph (2),*
a jurisdiction shall be considered suburban if the jurisdiction does
not meet the requirements of clauses (i) and (ii) of subparagraph
(B) of paragraph (3) of subdivision (c) and is located in a
Metropolitan Statistical Area (MSA) of less than 2,000,000 in
population, unless that jurisdiction's population is greater than
100,000, in which case it ~~is~~ *shall be* considered metropolitan.
~~Counties; A county, not including the City and County of San~~
~~Francisco, will~~ *shall* be considered suburban unless ~~they are in a~~
~~the county is in an~~ MSA of 2,000,000 or greater in population in
which case ~~they are the county shall be~~ considered metropolitan.

(2) (A) (i) *Notwithstanding paragraph (1), if a county that is*
in the San Francisco-Oakland-Fremont California MSA has a
population of less than 400,000, that county shall be considered
suburban. If this county includes an incorporated city that has a
population of less than 100,000, this city shall also be considered
suburban. This paragraph shall apply to a housing element revision
cycle, as described in subparagraph (A) of paragraph (3) of
subdivision (e) of Section 65588, that is in effect from July 1, 2014,
to December 31, 2023, inclusive.

(ii) *A county subject to this subparagraph shall utilize the sum*
existing in the county's housing trust fund as of June 30, 2013, for
the development and preservation of housing affordable to low- and
very low income households.

(B) *A jurisdiction that is classified as suburban pursuant to this*
paragraph shall report to the Assembly Committee on Housing
and Community Development, the Senate Committee on
Transportation and Housing, and the Department of Housing and

Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided twice, once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, and a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.

(f) A jurisdiction ~~is~~ *shall be* considered metropolitan if the jurisdiction does not meet the requirements for “suburban area” above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction’s population is less than 25,000 in which case it ~~is~~ *shall be* considered suburban.

(g) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not ~~permitted~~ *permitted, except that a city or*

1 *county may accommodate all of the very low and low-income*
2 *housing need on sites designated for mixed uses if those sites allow*
3 *100 percent residential use and require that residential use occupy*
4 *50 percent of the total floor area of a mixed-use project.*

5 (i) For purposes of this section and Section 65583, the phrase
6 “use by right” shall mean that the local government’s review of
7 the owner-occupied or multifamily residential use may not require
8 a conditional use permit, planned unit development permit, or other
9 discretionary local government review or approval that would
10 constitute a “project” for purposes of Division 13 (commencing
11 with Section 21000) of the Public Resources Code. Any subdivision
12 of the sites shall be subject to all laws, including, but not limited
13 to, the local government ordinance implementing the Subdivision
14 Map Act. A local ordinance may provide that “use by right” does
15 not exempt the use from design review. However, that design
16 review shall not constitute a “project” for purposes of Division 13
17 (commencing with Section 21000) of the Public Resources Code.
18 Use by right for all rental multifamily residential housing shall be
19 provided in accordance with subdivision (f) of Section 65589.5.

20 (j) *Notwithstanding any other provision of this section, within*
21 *one-half mile of a Sonoma-Marín Area Rail Transit station, housing*
22 *density requirements in place on June 30, 2014, shall apply.*

23 (k) *This section shall remain in effect only until December 31,*
24 *2023, and as of that date is repealed, unless a later enacted statute,*
25 *that is enacted before December 31, 2023, deletes or extends that*
26 *date.*

27 SEC. 2. *Section 1.5 of this bill incorporates amendments to*
28 *Section 65583.2 of the Government Code proposed by both this*
29 *bill and Assembly Bill 1537. It shall only become operative if (1)*
30 *both bills are enacted and become effective on or before January*
31 *1, 2015, (2) each bill amends Section 65583.2 of the Government*
32 *Code, and (3) this bill is enacted after Assembly Bill 1537, in which*
33 *case Section 1 of this bill shall not become operative.*